



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the Application of the
GOLDEN STATE WATER COMPANY
(U133W) for an order authorizing it to
increase rates for water service by \$2,812,100
or 32.61% in 2008; by -\$178,700 or -1.51% in
2009; and by \$109,900 or 0.92% in 2010 in its
Arden Cordova Customer Service Area.

Application 07-01-009
(Filed January 5, 2007)

And Related Matters.

Application 07-01-010
Application 07-01-011
Application 07-01-012
Application 07-01-013
Application 07-01-014
Application 07-01-015
(Filed January 5, 2007)

COMMENTS ON THE PROPOSED DECISION OF THE DIVISION OF RATEPAYER ADVOCATES

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1. Introduction

Pursuant to Rule 14.3 of the Commission Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) files these comments on the Proposed Decision (PD) of the assigned Administrative Law Judge (ALJ) dated December 11, 2007, in this proceeding. On December 26, 2008, at 10:43 a.m., the assigned ALJ granted an extension of time to file comments, from December 31, 2007, to January 7, 2008.

2. Background

According to Rule 14.3, subsection (c), in pertinent part states:

Comments shall focus on factual, legal or technical
errors in the proposed . . . decision and in citing such

errors shall make specific references to the record. . .
.Comments proposing specific changes to the proposed
. . . decision shall include supporting findings of fact
and conclusions of law.

Golden State Water Co. (GSWC) general rate case applications, A. 07-01-009 et al., filed on January 15, 2007, are subject to the Rate Case Plan Decision, D. 04-06-018.¹ Under the Rate Case Plan, GSWC has the burden of proving that its proposed rates are just and reasonable pursuant to Section 451 of the Public Utilities Code.² Section 451 states in pertinent part:

All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be *just and reasonable*. Every unjust or unreasonable charge demanded or received for such product or commodity or service is *unlawful*.

As written, the PD fails to hold GSWC to this burden of proof. Moreover, the PD disregards record evidence that rebuts several of GSWC's requests to increase rates, including GSWC's request to recover the purported costs of a "Conservation Coordinator" and a number of capital projects. If adopted, the PD would constitute legal error because its findings are not supported by substantial evidence in light of the whole record.³

Moreover, the PD does not weigh the evidence presented by DRA into this proceeding and instead relies on extra-record material to justify its findings. As a result, the Commission would commit legal error if it adopts the PD because the

¹ On May 24, 2007, the Commission issued D. 07-05-062 which revised D. 04-06-018.

² *OIR*, D. 04-06-018 at Concl. Law 5, 2004 Cal. PUC LEXIS 276, at *47 (dated; June 17, 2004) ("The utility bears the burden of proving that its Proposed Application meets the requirements of today's decision"), and at *64 ("The utility bears the burden of proving that its proposed rate increase is justified and must include in the PA all information and analysis necessary to meet this burden"). The term "Section" means a statutory provision of the Public Utilities Code, unless otherwise indicated.

³ California Public Utilities code § 1757(a)(4).

Commission would not have proceeded in a manner required by law.⁴ DRA addresses each of its concerns below. In Appendix A to these comments, DRA provides specific changes to the PD's Findings of Fact and Conclusions of Law, which are consistent with the record of this proceeding.

The "Water Action Plan" which the PD references for the first time in this proceeding at page 3, was published on December 15, 2005. It is not an official Decision of the Commission but rather is a statement of policy and guidelines that has no independent legal significance in the instant case. The Water Action Plan's policy statements and guidelines do not supplant the statutory requirements that GSWC's proposed rate increases must be proven "just and reasonable" or else they are "unlawful." Thus, it would be legal error for the Commission to apply the Water Action Plan guidelines in a manner that results in unjust and unreasonable burdens on the ratepayers.

Consistent with Section 451 and the 2004 Rate Case Plan, D. 04-06-018, the Commission declared in the Water Action Plan that establishing "reasonable rates" is one of the "Four Key Water Principles" that "will guide" the Commission in regulating the investor-owned water." As the Water Action Plan acknowledges, the Commission is responsible for "ensuring the utilities will deliver clean, safe, and reliable water to their customers at reasonable rates."⁵ In words echoing the Commission ratemaking role, the Water Action Plan states:

6. Set Rates Balancing Investment, Conservation, and Affordability

The CPUC will ensure that the established rates will provide for recovery of *reasonable and prudently incurred costs* and a fair and equitable return to shareholders. We will develop rates and ratemaking mechanisms to further the above goals of affordability,

⁴ Id. at § 1757(a)(2).

⁵ *Wtr. Actn. Pl.* at 3, available at ftp://ftp.cpuc.ca.gov/PUC/hottopics/3water/water_action_plan_final_12_27_05.pdf/.

conservation, and investment in necessary infrastructure. [Emphasis added.]⁶

3. DRA Comments

- 3.1 The POD commits multiple legal errors by applying the “goals of the Water Action Plan” as dispositive legal criteria for granting GSWC’s proposed increases. When it poses the “goals of the Water Action Plan” as dispositive legal criteria for granting GSWC’s proposed increases.

At page 3, the PD states:

Where DRA and Golden State failed to agree, we adopt Golden State’s requests for rate recovery for a number of capital projects and additional new positions. Overall, these capital projects and new positions will result in customers experiencing rate increases. However, the approved capital projects and new positions are needed to achieve the goals set forth in the Water Action Plan 2005 to improve water quality, service reliability, and upgrade aging infrastructure.⁷

It is critical to note that up to the point the POD was issued, the provisions of the Water Action Plan were not part of the evidentiary record of this proceeding. None of the testimony submitted addressed its provisions, and it has not been the focus of any discovery efforts. At the Prehearing Conference of February 26, 2007, GSWC indicated it had no other issues to add to those stated by DRA in its Prehearing Statement.⁸ After that colloquy, The PD stated:

I have one issue that I would like to consider adding to the scope of this proceeding. That would be the issue of low-income rates.⁹

⁶ *Id.* at 5.

⁷ *PD* at 3.

⁸ PHC Hearing Transcript (HT) at 3:16-18, S. Tomkins/GSMC.

⁹ *Id.* at 3: 19–21.

Other than that, the PD noted as a vague possibility the issue of GSWC having to submit conservation rates in coordination with another proceeding, as follows:

The other issue is conservation.

23 And I don't think that it's necessary for the Applicant

24 to submit conservation rates in this proceeding.

25 I just want to make sure that those issues

26 work together and -- the two proceedings work together

27 on that issue. So if the Applicant could help me by

28 apprising me of anything towards the end of the case

1 that I need to know, I'll do my best to keep on top of

2 things; but I want to make sure that at the end we are

3 on the same page in the two proceedings.

At the end of the PHC, the record states a Scoping Memo would be prepared consistent with the discussion of the issues during the PHC:

I will prepare

3 a Scoping Memo outlining what we have discussed today at

4 this prehearing conference in conjunction with the

5 assigned Commissioner.

The Scoping Memo of March 30, 2007, did not discuss in any manner the Water Action Plan as an issue. Instead, the "Scope of the Proceeding" was only described as follows:

The issues for a GRC proceeding are very broad, as this proceeding involves a comprehensive review of all aspects of the company's operations, utility plant, capital structure, capital budget, customer service, and customer rates and service quality. At the PHC, the assigned ALJ expanded the scope of this proceeding to also include low-income rates. As the assigned ALJ

indicated during the PHC, this issue of conservation rate design may also be addressed consistent with any final determination in Investigation 07-01-022.¹⁰

Indeed, if the Commission intended to make the Water Action Plan's guidelines an explicit set of criteria for determining if a given capital project would be approved by the Commission, it should have made its intentions known *ab initio*. Since adherence to the Water Action Plan's general policy guidelines was not made explicit at the outset, relying on this document

If this GRC were being decided under D. 07-05-062, which revised the 2004 Rate Case Plan to specifically incorporate the goals of Water Action Plan in the Rate Case Plan, DRA would certainly have addressed the Water Action Plan issues as D. 07-05-062 articulates and requires.¹¹ However, as the PD admits, this GRC is not subject to D. 07-05-062 but is governed by D. 04-06-018 which in contrast to D. 07-05-062 does not make the Water Action Plan an element of the Rate Case Plan.¹²

Therefore, the POD commits several legal errors. First, by not incorporating the Water Action Plan's goals in the Scoping Memo the POD *de facto* incorporated an extra-record document into the record. As D. 07-05-062 illustrates, the Commission initiated an Order Instituting Rulemaking, held workshops, solicited DRA and industry comments, and held hearings before incorporating the Water Action Plan as a legal element of the Rate Case Plan. The PD leapfrogs over all these regulatory steps and holds the Water Action Plan as the dispositive legal touchstone "when DRA and Golden State failed to agree." This is not proceeding in manner consistent with the law.

¹⁰ *Scop'g Memo* at 4, mimeo.

¹¹ *See D. 07-05-062* at 4, mimeo (decision incorporates the goals of the Water Action Plan into the Rate Case Plan).

¹² *PD*, Para. 2 "Background," at 4.

- 3.2 The PD appears arbitrary, capricious, and whimsical when it fails to state the Conclusion of Law and specific Findings of Fact that support its acceptance of GSWC's zeroing-out method.

At section 7.15 "Overhead Pool Account," the PD concludes:

We agree that the methodology proposed by Golden State is fair and provides a straightforward means of addressing the over-allocation issue. Accordingly, we will permit Golden State to continue to zero out the overhead pool account by charging the balance to various capital projects.¹³

Section 1705 requires that

the decision shall contain separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision.

Conclusion of Law 26 pertains to the zeroing-out issue but does not state any statute, decision, or any other legal principle. It merely states: "We will permit Golden State to continue to zero out the overhead pool account by charging the balance to various capital projects." This is more a statement of an order instead of a legal conclusion.

Although as noted above, the POD opines that GSWC's method is "fair," it fails to offer any criterion on which this conclusion is based. At page 9 of its Opening Brief, GSWC claims that DRA's zeroing-out recommendation is "inherently unfair" to GSWC, because this would force it to write off the balance in the Overhead Pool account.¹⁴ However, being fair to GSWC is not the legal criteria set by Section 451. GSWC must prove its zeroing-out method is "just and reasonable." If Section 451 had intended being fair to a utility as a legal criteria, it would have stated so. Therefore, the PD commits legal error by applying a standard inconsistent with Section 451.

¹³ PD at 33, mimeo.

¹⁴ GSWC Op. Br. at 9–10, mimeo.

Alternatively, even if Conclusion of Law 26 were valid, the PD fails to state specific Findings of Fact that would support the application of such a law. The PD contains no Findings of Fact that shows GSWC's zeroing-out method to be "fair" or what that term otherwise means according to the record.¹⁵

Further, GSWC only offered a settlement in a prior proceeding between DRA and GSWC regarding *inter alia* zeroing-out as the basis for its claim of DRA being "inherently unfair," as follows:

Instead of following the settlement, DRA now recommends that the balance in the overhead pool account should be written off. But that is inherently unfair to GSWC. The costs recorded in the overhead pool (indirect capitalized costs) are prudently incurred costs. . . . DRA's recommendation of writing off the balance of the overhead pool account at the end of each year without proper recoveries unreasonable. GSWC Tang, Ex. GSW (all)-18 at pp. 4–5.

In the statement above, GSWC uses conclusory terms such as "inherently unfair," "prudently incurred costs" or "unreasonable" and does not explain how Exhibit GSWC (all)-18 at p. 4–5 specifically prove its claims. The PD also does not state in its Findings of Fact or anywhere else what specifically in Exhibit GSWC (all)-18 or any other part of the record supports its use of the term "fair." Therefore the PD commits legal errors because its opinion that GSWC zeroing-out method is "fair" is unsupported by the record.

- 3.3 The PD without explanation adopts an Overhead Allocation Rate established in another proceeding, which appears arbitrary, whimsical, or capricious.

The PD adopts an overhead rate in this proceeding for the rate-year cycle of 26.12% for 2007, 26.37% for 2008, and 26.37% for 2009, which were the

¹⁵ See PD, FoFs 1–33, at 59 to 64, mimeo.

overhead rates established in D.07-11-037, the GRC Decision for GSWC Region

II. According to the PD,

[w]e make this decision because the record in this proceeding fails to establish the reasonableness of either DRA's or Golden State's proposals.¹⁶

The Commission cannot simply as a matter of expediency bootstrap another decision's methodology into a new case when it finds itself with a problematic record. It is incumbent on the Commission to make a decision on the record it has in any given case. The methodology employed here is inherently flawed and contrary to applicable statutory requirements. Moreover, the PD fails to explain how D. 06-04-037 facts and laws are similar or analogous to the particular facts and law involved in this proceeding. For example, Ordering Paragraph 5, in D. 07-11-037 the Commission ordered:

Pursuant to Paragraph 2.15 of the Joint Stipulation filed by GSWC and DRA on August 4, 2006, the following overhead rates for capital budget items should be used instead of the rates set forth in Paragraph 2.01 of said Joint Stipulation: 24.73% in 2006, 26.12% in 2007, and 26.37% in 2008.¹⁷

The overhead rates that the PD copies from D. 07-11-037 resulted from a settlement between GSWC and DRA which was adopted by the Commission. According to Rule 12.5,

Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

Disregarding the express provisions of Rule 12.5, the PD applies the stipulated overhead rates in D. 07-11-037 to this proceeding as if they were precedential. The PD gives no specific reasons with reference to the record

¹⁶ PD at 32, mimeo.

¹⁷ GSWC Reg. 2, D. 07-11-037, Ord. Para. 5, at 169, mimeo.

supporting either the reasonableness or legality of such action. For example, Findings of Fact 25 is conclusory and does not mention any specific fact(s) as explaining its rejection of DRA's recommendations. And the PD presents no legal authority justifying its disregard of Rule 12.5 that proscribes using Commission adopted settlements as precedential. Therefore the PD commits errors of fact and law.

- 3.4 The PD errs in finding that DRA did not address the issue of selenium in the wells and unreasonably bases its acceptance of the project on conjecture instead of the record.

At page 49, regarding the Lewis Lane Electrical project, the PD states:

However, we remain concerned about Golden State's claim that the project "could keep selenium concentrations below MCL" and "aid in improving water quality to ensure customer satisfaction." DRA did not address these issues. Based on the evidence regarding MCL improvement, we approve of this project as proposed by Golden State. We anticipate that water quality and customer satisfaction will improve accordingly.

First, the PD unreasonably disregards the fact that GSWC's application and work papers justified this project as meeting a water shortage and did not cite treating selenium as a goal of the project. Only in rebuttal testimony did GSWC mention the selenium in the water.

Second, the record does not support the PD's vague reference to "evidence regarding MCL improvement." GSWC's testimonies did not present records of actual levels of selenium in the water over specific periods and did not explain how the Lewis Lane project would impact such recorded selenium levels.¹⁸

¹⁸ See Ex. GSWC(All)-22, E. Gisler Rebuttl Test., at 61:6-9 (no reference to any work papers or other proof of the selenium levels in water).

To the contrary, GSWC admits that “[i]n general, the water quality from the Lewis Lane wells meets water quality standards.” Further, GSWC stated that the selenium only appeared in the water within the last year, which GSWC speculated as attributable to pumping levels.¹⁹

GSWC presented no specific studies or other objective data to show granting the Lewis Lane project would cause “MCL improvements.” In fact, GSWC Op. Br. only speculates as follows:

In turn, this [i.e., Lewis Lane project] could keep selenium concentrations below the MCL from both wells and eliminate the entrained gasses.²⁰

Therefore, the PD errs in granting the Lewis Lane project based on a finding of “MCL improvement” which is unsupported by the record. The PD is based on speculation instead evidence, as shown when the PD states, “[w]e anticipate that water quality and customer satisfaction will improve accordingly.”²¹

- 3.5 The PD unfairly disregards DRA’s showing and gives undue weight to GSWC claims re “the Rosina Plant and Pipelines for Nitrate Treatment” projects.

The PD errs when it holds:

Based on the evidence in the record, we find sufficient information to justify the project. Golden State should proactively seek to improve water quality in areas, such as Los Osos, where water supply sources are limited to groundwater. Accordingly, this project is approved as requested by Golden State.

First, the PD inaccurately summarizes DRA’s findings as amounting to one page and consisting only of the following:

¹⁹ *Id.*

²⁰ *GSWC Op. Br.* at 13.

²¹ *PD* at 49.

DRA expressed concerns over costs and suggested that the funds could be better spent by buying land and drilling new wells. (DRA Opening Brief, p. 43.)

DRA devoted three pages in its Op. Br. to this issue and expressed concerns not just regarding costs but with GSWC's failure to prove that the water quality justified the proposed projects. Further, it was GSWC that developed and considered the option of buying land and drilling new wells — not DRA.

The record does not support GSWC's total project costs of \$1,061,000 for the Rosina Plant and two pipeline main extensions to it, respectively, from the Pecho Well and the Skyline Well. GSWC did not submit any cost estimation data, General Work Orders, bid summaries, invoices, payment vouchers, or any other record to substantiate that all or any part of the \$1,061,000 is just and reasonable.²²

GSWC's showing confirms this absence of proof. GSWC Op. Br. devotes just two paragraphs to this issue; does not reference any work papers or other evidence of record in support of the project costs; but only cites "GSWC Gisler, Ex. GSW(all)-22, pp. 68-78" for the claim that the proposed projects will provide "operational flexibility."²³ In turn, Mr. Gisler's Rebuttal, Exhibit GSWC (All)-22, also states general reasons for the proposed projects but does not cite any work paper, cost estimation data, or other record as substantiating the projects or otherwise explain how the projects are just and reasonable.²⁴ GSWC Reply Br. again only cites "GSWC Gisler, Ex. GSW(all)-22, pp. 68–78 and repeats its claim

²² DRA (LO)-1 at 4-36 & nn.48 to 50 and 4-37 & n. 51 (the estimates are based on costs from similar projects).

²³ See *GSWC Op. Br.* at 15 (claiming "[t]hese projects are clearly in the ratepayers' best interests and should be approved," without stating where in the record if at all the documentary evidence is located that supports such a conclusion).

²⁴ See Ex. GSWC (All)-22 at 68–78 (no discussion of how all or any portion of the \$1,061,000 project costs were estimated or calculated).

of “operational flexibility” but does not justify with specific citations to work papers or other documents of record the projects as just and reasonable.²⁵

DRA finds it troubling how the PD could find “sufficient information to justify the project[s]” when it is apparent the record contains no data justifying the \$1,061,000 project costs as just and reasonable, because GSWC failed meet its burden of proof, as shown above. Further, the PD has not made any findings (e.g., Findings of Fact) that would indicate otherwise. Therefore, the PD errs by not proceeding in a manner required by law. The PD’s proposal to authorize the project costs must be “supported by substantial evidence in light of the whole record” and it is not.²⁶ The PD may not impose on ratepayers rate burdens that are unjust and unreasonable.²⁷

As for the water quality at the Pecho Well, DRA found GSWC inconsistently claiming in work papers that nitrates was contaminating the wells. But then in written direct testimony, GSWC stated it was a TDS problem.²⁸ This inconsistency suggests that GSWC’s witnesses lack credibility and cannot be relied upon as justification for a significant capital project.

Although GSWC presented DRA with a chart of TDS and another of nitrates in the Pecho Well, the TDS chart showed only low levels²⁹ and the nitrate chart indicated levels never exceeded an MCL of 45mg/l and rose during periods well inactivity but decreased “to acceptable levels” when “the well is exercised.” Although GSWC claimed that the Pecho Well is monitored on a monthly basis for

²⁵ See *GSWC Reply Br.* at 15–17 (no justifications with citations to record showing all or any portion of \$1,061,000 total project costs were reasonably derived).

²⁶ See Sec. 1757, subsec. (a)(2)–(4) (grounds for judicial appellate review).

²⁷ Sec. 451 (unlawful to impose unjust and unreasonable rate burdens).

²⁸ *DRA (LO)-I* at 4-37 & nn.51-52 (nitrates have adverse health effects and are classified as “primary maximum contaminant limits”; as TDS has no known adverse health effects and are categorized as “secondary maximum contaminant limit.”)

²⁹ See *id.* at 4-37 to 4-38 & nn.53 to 55.

TDS, GSWC never came forward and made any monthly monitoring reports a part of this record.³⁰ Further, according to the California Department of Health (DHS) inspection of the Los Osos system on December 14, 2004, nitrate and TDS levels were normal which required only routine sampling schedules for the Pecho Well.³¹

The GSWC Op. Br. did not discuss the TDS or nitrate charts or the 2004 DHS inspection report described above.³² The GSWC Reply Br. dismisses DRA's findings as "[c]learly DRA does not understand the seriousness of violating the Nitrate MCL," but fails to rebut the December 14, 2004 DHS Report which found no violation of "Nitrate MCL" but only normal levels of nitrates in the Pecho Well.³³

Therefore, DRA is puzzled how and where in the record, the PD found "sufficient information to justify the project," when the record contains no data inconsistent with DHS most recent findings that TDS and nitrate levels at the Pecho Well is normal. The PD has made no findings that show the water quality at the Pecho Well is other than normal according to DHS. Therefore, the PD errs at law and in fact in proposing approval of the \$598,000 project costs, when such decision is not supported by substantial evidence in light of the whole record.

3.6 The PD unjustifiably disregarded DRA findings showing that GSWC failed to prove the Sisquoc- Foxenwood Site- Well Pump Backup Power project request is unjustified and unreasonable.

GSWC is seeking \$162,000 in Test Year 2007 to purchase and install a 20KW, diesel powered generator at the Foxenwood Canyon Well site in the

³⁰ *DRA Op. Br.* at 41 & n.128 (showing how GSWC failed to provide monthly TDS monitoring reports).

³¹ *See DRA Op. Br.* at 42 & n.130 (*citing* GSWC Master Data responses which provided the Dec. 2004 DHS inspection reports (DHS now known as the CA Dept. of Publ. Health)).

³² *See GSWC Op. Br.* at

³³ *DRA Op. Br.* at 42 & n.130 (GSWC evidently disregards its own the Dec. 2004 DHS Repts which it provided to DRA).

Sisquoc System, Santa Maria CSA. The PD at page 56 proposes to approve this project as follows:

We agree with Golden State. Providing backup power is a reasonable and prudent measure to ensure reliable supply to the Sisquoc system. Furthermore, the consequences of no longer having water in the water mains, dewatering the system, are significant and present a potential health risk to customers. This project is approved as proposed by Golden State.

The PD apparently gives no weight to DRA's finding that GSWC already has a mobile generator unit, and thus did not find GSWC's request justified and reasonable.³⁴ DRA also found GSWC's cost estimates were unsupported and unreasonably high.³⁵ DRA extensively analyzed and supported these contentions in its Op. Br.³⁶ In contrast, GSWC fails to rebut DRA's analyses.³⁷ Yet, the PD makes no finding and sets forth no Findings of Fact that would contradict DRA's showing.

Further the record does not support the PD's conclusion that the system risks "no longer having water in the water mains." DRA in detail briefed this issue and proved that the record does not support such a possibility.³⁸ GSWC did not rebut this finding.³⁹ Yet, the PD appears to have given no weight any this part of the record.

³⁴ Ex. DRA (SM)-01 at 4-4: 12 to 16, DRA Santa Maria Rept.

³⁵ *Id.* at 4-4: 17 to 24 and 4-5: 1 to 13 (e.g., "CH2MHILL are \$60,000, which is an increase of 500% over GSWC's own costs.")

³⁶ See *DRA Op. Br.* at 6 & nn.3-5 to 7 & nn.6-7 (citations to the record in footnotes).

³⁷ See *GSWC Reply Br.* at 2 (GSWC states only that it provided support for project costs in "Ex. GSW(SM)-3, pages 87 - 90," but fails to show how this data proves project is reasonable and justified.)

³⁸ *DRA Op. Br.* at 4 & n.1 to 5 & n.5 (history of water outages and record of maximum day demand proves small chance of "no longer having water in the water mains).

³⁹ See *GSWC Reply Br.* at 2 (no discussion of historical data or max day demand).

Therefore, the PD is unsupported by substantial evidence in light of the entire record. Moreover, the PD is inconsistent with Section 1705 in not making any Findings of Fact showing it is based on the record regarding the disposition of this material issue. The PD instead should have found GSWC failed to meet its burden of proof and thus this request is denied.

- 3.7 The PD misunderstands DRA's findings, when at pp. 56–57 it approves the Nipomo System-La Serena Plant Site Work.

This project consists of two parts: (i) the Nipomo- La Serena Erosion Control (NLSEC) and (ii) the Nipomo La Serena Site Paving (NLSSP). For the NLSEC, GSWC seeks \$43,000 in Test Year 2007 to install 4,000 square feet of landscaping at the La Serena Plant location, such as planting ground vegetation and new trees in connection with the La Serena Plant Improvement Project (LSPIP).

For the NLSSP, GSWC seeks \$64,000 in 2007 to install at the La Serena Plant site an all-weather surface for vehicular access and plant operation year around. This portion of the project is also associated with the LSPIP.

The PD proposes to approve both parts as follows:

Upon close review of this matter, we conclude that Golden State has not acted improperly. As explained by Golden State, these projects are not yet in rate base for ratemaking purposes and Golden State seeks to obtain authorization for rate base treatment here. (Golden State Reply Brief, p. 3.) Accordingly, we authorize the project as proposed by Golden State.

The PD inaccurately reads DRA's findings when the PD states: "DRA objected on the basis that the project has already been included in rate base. (DRA Opening Brief, pp. 8-9.)" DRA is not stating that the NLSEC costs (\$43,000) and NLSSP costs (\$64,000) are already included in rate base. Here is what DRA actually is saying:

DRA recommends disallowing rate recovery for any part of the LSPIP, such as the NLSEC (\$43,000) and NLSSP (\$64,000), because GSWC has already booked

into ratebase nearly \$4 million for the LSPIP without prior Commission's authorization and approval. Because ratepayers have been bearing unauthorized rate burdens in the name of LSPIP, DRA recommends barring GSWC from increasing its rate base in any amount attributable to NLSEC and NLSSP until such time as the Commission has had an opportunity to review the \$4 million already booked there. The Commission needs to halt any further ratemaking abuses by GSWC.⁴⁰

The PD unreasonably ignores the DRA's contentions. GSWC has unlawfully placed in rate base nearly \$4 million of capital costs without Commission authorization. This materially harms the ratepayers and according to Section 451 constitutes an unlawful act. Yet the PD averts addressing this illegality by misrepresenting DRA's finding. The PD is committing a grave error of law and fact that amounts to condoning GSWC's unlawful actions.

- 3.8 DRA is dismayed that the PD repeatedly misinterprets DRA's findings and on that basis approves at page 57 GSWC's Miscellaneous Bowl Replacement project.

GSWC seeks \$213,000, \$223,000, and \$234,000 respectively in Test Years 2007 and 2008 and Escalation Year 2009 for emergency replacement of pumps and motors; column extensions required due to declining pumping levels; replacing pumps and motors operating at below acceptable efficiencies.⁴¹

The PD states:

DRA claimed that Golden State failed to provide sufficient supporting data. (DRA Opening Brief, p. 10.) In response, Golden State cited to specific information in its testimony and in its responses to data requests from DRA that support its request. (Golden State Reply Brief, p. 5.) Specifically, Golden State provided historical average spending patterns for the last ten years without inflation. We find that Golden

⁴⁰ *DRA Op. Br.* at 8.

⁴¹ *See id.* at 9 (Background).

State provide sufficient information to carry its burden of proof on this issue. Accordingly, we approve of this project as proposed by Golden State.

GSWC claimed in written direct testimony that its request is based on trending past expenditures for this type of projects, but did not provide supporting data showing the past expenditures or the trending methodology used.⁴² Subsequently, GSWC provided historical data for GSWC's expenditures for this project over the past ten years but no information regarding its trending methodology.⁴³

DRA used the last five years of this cost data; normalized abnormally high and "out-of-trend" in various years; applied the appropriate inflation factor to the adjusted average; and determined the following amounts as reasonable and justified: \$152,000, \$172,000, and \$180,000 for 2007, 2008, and 2009, respectively.⁴⁴ In rebuttal, GSWC objected to DRA's normalization of the five years of cost data, claiming "[e]mergencies are difficult to predict, so we need to be prepared to deal financially with them."⁴⁵

Additionally DRA halved its estimates stated above, based on two factors: (i) GSWC's stated purpose for these funds was for emergency replacements and (ii) because GSWC is allowed A. 07-01-009 a 5% contingency fund for meeting emergency replacements.⁴⁶ On rebuttal, GSWC claimed the 5% contingency rate is insufficient.⁴⁷

⁴² *DRA Op. Br.* at 16 & n.16 (*citing* Ex. DRA (SM)-1 at 4-10:1 to 4).

⁴³ Ex. DRA (SM)-1 at 4-10:15 to 18; *id.*

⁴⁴ *Id.* at 19 to 26.

⁴⁵ Ex. GSWC (ALL) -22 at 111:21–22, E. Gisler Rebuttal/GSWC.

⁴⁶ Ex. DRA(Santa Maria)-1 at 4-11: 1 to 9 (additional DRA findings stated as justifying DRA's halving).

⁴⁷ Ex. GSWC (ALL) -22 at 111:24–27, E. Gisler Rebuttal/GSWC.

Therefore, the PD misconstrues DRA's claim as only limited to whether GSWC provided data. Yes, GSWC provided the cost data but that does not comprise the substantive issues. First, has GSWC justified its proposed requests as reasonable. DRA found that GSWC's data did not. Second, has GSWC justified as reasonable a contingency rate exceeding 5%, which DRA showed it did not.

The PD therefore errs in approving GSWC requests based on whether or not it provided cost data.

- 3.9 The PD at page 21 proposal to approve GSWC's request for a Northern District Water Conservation Coordinator position is based on speculation instead of the record.

The PD states:

Regarding this position, DRA claims that, until we adopt a comprehensive program in Investigation (I.) 07-01-22, Golden State is acting prematurely by seeking to hire a water conservation coordinator. In response, Golden State points out that water conservation in California is nothing new and the time is right to start putting more resources in this important area. We agree. . . . Accordingly, we approve of this position with the expectation that in the near future we will see improvements in water conservation from Golden State.

The burden of proof is on GSWC and it failed to meet that burden in contesting DRA findings that GSWC is capable of achieving conservation in Region I with its present resources. Apparently, the POD agrees with GSWC that "the time is right to start putting more resources" into water conservation; however, the issue that the POD fails to address is whether the timing is right given GSWC's present resources for conservation.

In his rebuttal testimony, Roland Tanner speaks about the Water Forum agreement and mentions that it is "difficult" for the company to comply with the

“water conservation element.”⁴⁸ Tanner also references BMP 14, which describes a Water Conservation Plan and a water conservation coordinator responsible for implementing that plan.⁴⁹ However, the record does not contain any evidence proving that GSWC is unable to achieve conservation — whether to implement BMP 14 or otherwise — in Region I with its existing resources. As the record shows, GSWC already has conservation programs in place for Region I.⁵⁰ As Mr. Gomberg stated in his testimony, “[t]he company did not provide any information about specific equipment it provides to its customers in Region I.”⁵¹

Therefore, it is unjust and unreasonable to impose on ratepayers the burden of paying for the Region I Conservation Coordinator, based merely on GSWC’s opinion that the time is right without showing it is unable to achieve conservation based on present resources. Thus, the company did not meet its burden of proof to justify the reasonableness of the conservation coordinator position.

Notwithstanding that the POD is unsupported by the record, it is not acting in a manner consistent with the law when it is based on the “expectation” that by authorizing the requested position GSWC will improve water conservation in Region I. While the POD cites the Water Action Plan, it fails to make any findings of record that GSWC has shown this particular Water Conservation Coordinator is the most cost efficient alternative to achieve water conservation. The record does not contain substantial evidence in light of the entire record that the expectation of conservation benefits will occur as a result of allowing this position. The POD’s “expectation” of future conservation benefits is not a justification of reasonableness. The Water Action Plan does not call for seeking water conservation regardless of cost to the ratepayers. Therefore the POD errs in

⁴⁸ Ex. GSWC (ALL)-19 at 37:10-11, R. Tanner/GSWC.

⁴⁹ *Id.* at 37:15–23.

⁵⁰ HT vol. 9 at pp. 247-249, M.Gomberg/DRA.

⁵¹ *Id.* at pp. 248-249.

proposing to approve this request without finding that GSWC has justified it as reasonable.

- 3.10 In proposing to approve at pp. 22-23 the requested Los Osos Water Supply Operator II & Simi Valley Water Supply Operator II positions, misunderstands the record and is allowing double recovery.

The PD states:

We agree that Golden State is not seeking double rate recovery. Golden State filled these positions in 2007 but does not seek rate recovery here for the expenses it incurred in 2007.

However, the PD places undue weight GSWC's claim that it is not seeking rate recovery for expenses incurred in 2007, when the record shows that the Commission has already granted GSWC funds to cover this position and GSWC has not shown those funds are unavailable. In D.05-05-025, Appendix A, the Commission approved funding for GSWC's Labor Expenses which would include the employment positions that GSWC filled in 2007.⁵²

GSWC has not met its burden of proving that these Commission-approved expense dollars in D.05-05-025 are unavailable for funding the two Water Supply Operator II positions at issue. For example, GSWC did not brief D. 05-05-025.⁵³ Consequently, the record establishes it unjust and unreasonable to make ratepayers pay for the two water supply operators when GSWC already has funds these labor expenses. The PD makes no finding to the contrary and therefore it is not supported by record.

The PD also ignores addressing the impropriety of including the same labor expenses in two rate cycles. GSWC requested these labor positions in 2007, which was approved and taken into account for the prior rate cycle 2005–2007. At

⁵²*DRA Op. Br.* at 47

⁵³ See *GSWC Op. Br.* at 7–8 (no discussion of D. 05-05-025); *GSWC Reply Br.* at 1, 14, and 26 (no mention of D. 05-05-025).

the time of hearing, these positions remained vacant. Now the same two positions are requested for the succeeding rate cycle 2008–2010.

The issue which the PD does not address is whether to allow GSWC to recover in 2008 an amount of labor expenses for these positions that was recovered in 2006 and 2007 and escalated to 2008, when these two labor positions remained unfilled in 2007.⁵⁴ The PD should authorize labor expenses for these positions for the current rate cycle at the starting level of expenses for the new employee to be hired in 2008.

Therefore, contrary to the PD the record shows that GSWC is seeking continue recovering in the present rate cycle the labor expenses that it had recovered in the preceding rate cycle. By allowing this, the PD would impose on ratepayers unjust and unreasonable rate burdens.

4. Conclusion

Due to the page limitation on Comments to the PD, DRA is unable to include its comments regarding the projects listed below. In general, the findings of the PD regarding these projects (1) does not hold GSWC to its burden of proof; (2) is not supported by substantial evidence in light of the whole record with specific citations to the record; and/or (3) fails to weigh the evidence DRA presented to the record with specific citations to the record. DRA waives none of its rights to include any issue of record in a subsequent application for rehearing.

Los Osos:

- 1- Interconnection with LOCSD: \$223,000

Ojai:

- 1- Well Pump Replacement (Gorham and San Antonio Well No. 4): \$145,000
- 2- Valves: \$94,000

⁵⁴ See Exhibit DRA (ALL)-4, a spreadsheet prepared by GSWC witness R. DeLeon, showing the labor expenses for the current rate cycle would be calculated based these expenses in 2006 – 2007 and escalated to 2008. HT at 638 and 645:28 to 646:1-20, E. Matsuoka/DRA.

Santa Maria:

- 1- Orcutt Hill Well and Reservoir (additional Capacity): \$614,000

Simi Valley:

- 1- Miscellaneous Bowl Replacement: \$90,000
- 2- Hydrant: \$84,000
- 3- Rebecca Plant Improvements: \$186,000
- 4- Runkle Canyon Storage Tank- Capacity increase: \$213,000
- 5- Service line Replacement: \$351,4000
- 6- Crater Tanks removal: \$294,000
- 7- Nile Study Upgrades and Improvements: \$558,000

Respectfully submitted,

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January 7, 2008

APPENDIX A-PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER

Findings of Fact

1. Golden State filed seven applications on January 5, 2007, A.07-01-009, A.07-01-010, A.07-01-011, A.07-01-012, A.07-01-013, A.07-01-014 and A.07-01-015, seeking rate increases in the customer service areas of Arden Cordova, Bay Point, Clearlake, Los Osos, Ojai, Santa Maria, and Simi Valley. Together these customer service areas are referred to as Region I of Golden State's service area.

2. The ALJ consolidated these proceedings on February 26, 2007.

3. This consolidated proceeding was submitted on October 4, 2007.

4. During this course of this proceeding, the Commission received valuable input from the public at the PPHs and through letters and electronic mail sent to the Public Advisor's Office.

5. Overall, the communities served by Golden State in all seven districts stressed the following points: (1) the magnitude of the rate increases is unreasonable; (2) service quality is not reliable; and (3) water quality, in a general sense, requires improvement.

6. In some service areas, the community raised more specific concerns. In Bay Point, fluoridation was raised by the Director of Public Health, Contra Costa Health Services. In Ojai, the issue of service reliability was raised by the City Manager of the City of Ojai.

7. At each of the PPHs, Golden State responded to the public's concerns. Representatives from DRA also attended each PPH and advised the communities that DRA planned to closely analyze Golden State's

request to increase rates and, consistent with its statutory obligation, would advocate on behalf of the ratepayers.

8. DRA and Golden State filed a motion requesting that the Commission adopt a Stipulation on August 17, 2007. The motion stated that DRA and Golden State convened a settlement conference between June 15 - 20, 2007 and, prior to meeting, provided formal notice to all parties to the proceeding of the upcoming meeting. Only DRA and Golden State attended the meeting. The August 17, 2007 motion requested the Commission to adopt the Stipulation in its entirety.

9. The Stipulation is not opposed by any party although the City of Ojai and Kathy Staples did not participate in the publicly noticed settlement meetings.

10. The Stipulation describes the agreement reached for each issue. The reconciliation exhibits prepared by Golden State and DRA indicate each party's initial and final positions on each line item of the summary of earnings for each district.

11. We have evaluated DRA's and Golden State's exhibits and testimony as they relate to the stipulated items, reviewed in detail their initial positions and compared them with the Stipulation and accompanying explanations.

12. One of Golden State's O&M accounts, referred to as the common customer account, includes several accounts which are allocated from the Golden State's general office located in San Dimas, California. This general office provides support services to all three of Golden State's Regions.

13. Even though general office expenses associated with San Dimas are included in the revenue requirement and rate calculation approved in this

consolidated proceeding, the Commission does not review general office expenses in this consolidated proceeding. Instead, under the RCP for Class A water utilities set forth in D.04-06-018, general office expenses are reviewed and allocated to the various CSAs and Regions by the Commission in a separate proceeding. This review and allocation most recently occurred in A.06-02-023, approved by the Commission on October 18, 2007 in D.07-11-037.

14. In D.07-11-037, the Commission determined that the San Dimas general office costs should be allocated as follows: Golden State 92.5%, Chaparral City Water Company 2.8%, and American States Utility Services 5.6%. In D.07-11-037, 19.60% was allocated to Region I.

15. The increase need for staffing has been felt throughout the company and is driven by the ever-increasing demands of cost effective operations, maintenance, water conservation, water quality and infrastructure replacement. ~~More specifically, additional staff is needed to ensure compliance with more stringent water quality regulation, additional data gathering requirement, and increased filing requirements with DHS. We have noted that water quality is an issue of the highest importance in our Water Action Plan 2005. Additional staff is also needed to address increased oversight by financial regulators required by Sarbanes-Oxley and to better safeguard the water supply.~~

16. ~~Golden State seeks an additional position, referred to as the Northern District Water Conservation Coordinator, to promote water conservation throughout Region I.~~

17. Water conservation is critical in California to extend limited resources as far as possible to allow for future growth. Cost-efficient water conservation is the least expensive source of water.

18. Golden State seeks an additional position, referred to as the Coastal District Engineering Technician III position, ~~because Golden State has been relying on untrained employees from the seven CSAs to perform the work of an engineering technician. Relying on untrained employees from the seven CSAs to perform the work of an engineering technician is not best way to use the company's resources. The work clearly exists for this new position.~~

19. Golden State seeks two other additional positions, referred to as the Los Osos Water Supply Operator II and the Simi Valley Water Supply Operator II. ~~With the addition of these two positions, Golden State will be able to always have a licensed, qualified water supply operator available. Golden State is not asking for retroactive ratemaking or recovery of any expenses that it may have incurred in connection with these positions in 2007.~~

20. A Master Plan is a document based on a detailed analysis of a water system that provides a 10-year forecast to address water supply reliability, distribution, storage, and water quality as they relate to existing and anticipated demands within the system.

21. In D. 07-05-062, our decision adopting a revised RCP, we expressed our preference for Master Plans by imposing the requirement that future GRC applications contain a long-term, 6-10 year Water Supply and Facilities Master Plan as part of the Minimum Data Requirements.

22. Golden State's proposal to rely on the expertise of an outside consulting firm CH2MHILL is reasonable but we find that the possibilities for conflicts of interest exist.

~~23. Golden State capitalizes its O&M and A&G expenses either directly to a specific capital project or, if the expenses cannot be assigned to any particular capital project, to the overhead pool account.~~

24. The contingency rate is expressed as a percentage of the capital budget and it is used for funding unexpected capital expenditures or to fund unforeseen cost overruns of budgeted projects. A critical management function includes accurately budgeting and pursuing cost containment.

25. To establish a fair rate of return, we must adopt a capital structure and cost of capital for each of Golden State's seven CSAs within Region 1. Based on the adopted cost of capital and capital structure, we will determine and adopt the appropriate rate of return on Golden State's regulated business, also referred to as its rate base.

26. Golden State has proposed a low income program in this proceeding and already has low income assistance programs in Region II and Region III service areas. These programs are referred to as California Alternative Rates for Water (CARW).

27. Golden State proposes a number of capital projects for each CSA.

28. We raised the issue of the whether or not Golden State should fluoridate water in Bay Point in an ALJ ruling dated August 24, 2007. The ALJ ruling sought to include additional evidence in the record, specifically a letter addressed to the ALJ from Dr. Brunner, Director of Public Health, Contra Costa Health Service, (Ex. A) and a position statement by the American Dental Association (Ex. B).

29. In a subsequent ALJ ruling, we agreed that certain portions of Exhibit A should not be included in evidence because those portions were irrelevant to the issue of fluoridation.

30. Golden State stated it had no objection to being directed to fluoridate the water it delivers to customers provided that the Commission determines fluoridation is in the best interest of customers and that Golden State is authorized to fully recover the related capital costs and operating expenses.

31. In Clearlake, Golden State forecasted Water Loss to be 47.48% in 2008 and DRA estimated this figure to be 35.35%. These figures are significantly above the Water Loss experienced in the other CSAs and significantly above the 7% target we adopted in D.07-05-062.

32. The City of Ojai expressed concern that rate increases in Ojai would not be accompanied by an increase in customer service and water quality. We expect to see improvements in water quality and service reliability as a result of the projects approved herein.

33. Golden State's application included information on its water quality compliance in each CSA. All of this information was admitted into evidence without cross-examination or objection. The company's presentation was based on existing data and provided descriptions of water sources, treatment methods, problem areas and future corrective measures where applicable, for all seven districts.

Conclusions of Law

1. This decision approves various general rate increases for the years 2008, 2009, and 2010 for seven Golden State CSAs. These seven CSAs are Arden Cordova, Bay Point, Clearlake, Los Osos, Ojai, Santa Maria, and Simi Valley. Together these CSAs are referred to as Region I of Golden State's service area.

2. While the rates for year 2008, the test year, are set by this decision, the rate adjustments for the second and third years, 2009 and 2010, will be specifically determined when advice letters for those two years are filed prior to years 2009 and 2010.

3. The evidentiary record supports concerns raised by the public and today's decision seeks to address these matters.

4. Prior to adopting any settlement, such as the Stipulation presented by DRA and Golden State, the Commission must review the settlements to ensure that the agreement is "reasonable in light of the record, consistent with the law, and in the public interest," as required by Article 12 of the Commission's Rules of Practice and Procedure.

5. We also take into consideration that the Commission has long favored the settlement of disputes. This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.

6. The Commission's policy is that contested settlements or settlements entered into by some, but not all, of the parties should be subject to more scrutiny compared to an all-party settlement.

7. For these reasons, we will review the Stipulation's resolution of every contested issue, considering each issue raised by the City of Ojai and Kathy Staples.

8. DRA is charged with upholding the ratepayers' long-term economic best interests.

9. The Stipulation represents a compromise between DRA and Golden State arrived at through extensive negotiations in the interest of avoiding the expense and uncertainty inherent in litigation.

10. In each case, the results are supportable within the range of possible outcomes based on the whole record.

11. We conclude that the sponsoring parties of the Stipulation are fairly representative of the affected interests.

12. The Stipulation is reasonable in light of the whole record consistent with applicable law, and in the public interest.

13. The principal public interest affected by this proceeding is the delivery of safe, reliable water service at reasonable rates. The Stipulation advances that interest.

14. There is a strong public policy in favor of settling disputes to avoid costly and protracted litigation. The Stipulation promotes that policy as well.

15. Throughout this decision, each provision of the Stipulation is separately analyzed to ensure consistency with the reasonableness standard set forth in Article 12 of the Commission's Rules of Practice and Procedure.

16. We conclude that the Stipulation is in the public interest and should be approved.

17. In D.07-11-037, the Commission determined the percentage of the San Dimas general office costs to be allocated to Region I.

18. We direct Golden State to modify its labor expense projections consistent with our finding in D.05-07-044.

19. We approve of Golden State's request to add a Northern District Water Conservation Coordinator position based on our priority to pursue water conservation efforts.

20. We approve of the additional position referred to as the Coastal District Engineering Technician III position because relying on untrained

employees from the seven CSA to perform the work of an engineering technician is not best way to use the company's resources.

21. We approve of the addition of a Water Supply Operator II in Los Osos and in Simi Valley to help Golden State maintain the highest standards of water quality, as encouraged by the Water Action 2005.

22. Because of the high level of skill needed to create Master Plans, we approve of Golden State's request to contract with CH2MHILL to complete the Master Plans.

23. We will require competitive bidding on all jobs proposed by a Master Plan designed by CH2MHILL on which CH2MHILL seeks to perform any type of work.

24. Because the useful life of these Master Plans will extend beyond the current rate cycle and to reduce the rate impact of the costs associated with these Master Plans, we accept Golden State's proposal to amortize the costs of these Master Plans in accordance with the composite rate for each district, which on average means 10.15%.

25. Regarding the overhead allocation rate, we find Golden State's proposal is not adequately supported by the record. We also find that DRA's analysis fails to take into account several important factors. Accordingly, based on our recent findings in D.07-11-037, we adopt overhead rates of 26.12% (2007), 26.37% (2008), and 26.37% (2009).

26. We will permit Golden State to continue to zero out the overhead pool account by charging the balance to various capital projects. However, we are concerned with ongoing over-allocation to the overhead pool account. We advise Golden State that it must improve the allocation process so that there is less of an annual discrepancy. Therefore, by July 1, 2008, as part of Golden State's GRC for Region II, Region III and General

Office, Golden State must present a better more robust allocation process or risk a Commission audit.

27. We have supported a 5% contingency rate for Golden State in several prior decisions resolving Golden State's GRCs.

28. While we have an obligation to set a fair rate of return, we must balance this obligation with our duty to protect customers from unjust prices.

29. We find the proposal for CARW for Region I reasonable under Rule 12.1.

30. With the exception of the addition of low income rates, we make no modifications to rate design.

31. Golden State requests minor modifications to its existing tariff maps. These requests are reasonable.

32. As indicated herein, we approve of the capital projects requested by Golden State with the exception of the request for costs associated with installation of services in the Ojai CSA.

33. We find that fluoridation in Bay Point is in the public interest.

34. We expect Golden State to make progress on reducing its Water Loss in Clearlake and to seek any additional Commission approvals necessary to accomplish this goal.

35. Golden State's water quality presentation for the seven districts in this proceeding meets the requirements set forth in GO 103. Importantly, Golden State has made and continues to make substantial progress in improving water quality. We, in turn, will continue to monitor Golden State's water quality with the expectation that we will see results.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of Golden State Water Company (Golden State) and Division of Ratepayer Advocates (DRA) to Adopt Stipulation filed on August 17, 2007 is granted. The Stipulation, attached to that motion is approved.

2. Golden State is authorized to file in accordance with General Order 96-B and make effective on not less than five days' notice revised tariff schedules via a Tier 2 advice letter for each district and rate area in this proceeding, reflecting the adopted rates for test year 2008 included as Attachment C to this order. The revised tariff schedules shall apply to service rendered on and after the date this decision is mailed and no sooner than January 1, 2008.

3. For escalation years 2009 and 2010, Golden State shall file advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for each district and rate area in this proceeding. Golden State's advice letters shall follow the escalation procedures set forth in the Commission's Rate Case Plan for Class A Water Utilities set forth in D.07-05-062 and shall include appropriate supporting workpapers. The revised tariff schedules shall take effect on January 1, 2009 and January 1, 2010, respectively and shall apply to service rendered on and after their effective dates. The proposed, revised revenue requirements and rates shall be reviewed by the Commission's Water Division. Water Division shall inform the Commission if it finds that the revised rates do not conform to the Rate

Case Plan, this order, or other Commission decisions, and if so, reject the filing.

4. The capital structure, cost of debt, rate of return on equity, and rate of return on rate base shown in the Stipulation are adopted for the 2008, 2009, and 2010 GRC cycle.

5. We direct Golden State to modify, if necessary, its labor expense projections consistent with our finding in D.05-07-044. In that decision, we found that San Gabriel's proposed estimating method for labor expenses included expenses for vacant positions. We decided there, absent a showing of extraordinary circumstances, that to the extent there were vacancies in the recorded year, we should assume there would also be comparable vacancy savings in the test and escalation years.

6. We direct Golden State to implement its California Alternative Rates for Water (CARW) program for Region I as soon as possible within 90 days of the issuance of this decision.

7. We find that fluoridation in Bay Point is in the public interest. Accordingly, we direct Golden State to file an advice letter within 180 days proposing to fluoridate the water in Bay Point. The advice letter must describe the costs associated with fluoridation and propose a cost recovery mechanism. This advice letter will be a Tier 3 advice letter and must be served on the service list of this proceeding. After review of the advice letter, if we find the costs associated with fluoridation reasonable, we will issue a resolution to direct Golden State to proceed.

8. By July 1, 2008, as part of Golden State's scheduled GRC, Golden State must present an improved overhead allocation process or risk a Commission audit.

9. We expect Golden State to make progress on reducing its Water Loss in Clearlake and to seek any additional Commission approvals necessary to accomplish this goal. Toward this end, Golden State must file an advice letter within 120 days of the date of this decision with a proposal to reduce Water Loss in the Clearlake CSA.

10. We direct Golden State to meet with the City of Ojai, at the City's invitation, to discuss matters related to water quality and service reliability. Furthermore, we direct the City of Ojai to contact the Commission with any unresolved concerns regarding water quality and service reliability at the conclusion of these meetings. Then, the Director of the Water Division shall recommend a procedure to the Commission for investigating this matter further.

11. The summaries of earnings are presented herein at Attachment B, the adopted rate bases at Attachment F herein, and the quantities and income tax calculations are included at Attachments D and G to this order. A comparison of present rates and adopted rates for 2008 is attached hereto as Attachment E.

12. In the future, Golden State must conform its practices in Region I to the requirements set forth in D.07-05-062.

13. Golden State's requests in Application (A.) 07-01-009 through A.07-01-015 are granted as set forth above, and in all other respects are denied.

14. A.07-01-009, A.07-01-010, A.07-01-011, A.07-01-012, A.07-01-013, A.07-01-014 and A.07-01-015 are closed.

This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “COMMENTS ON THE PROPOSED DECISION Of The DIVISION Of RATEPAYER ADVOCATES” on all know parties to **A.07-01-009** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

[X] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated at San Francisco, California this 7th day of January, 2008.

/s/ ANGELITA MARINDA

Angelita Marinda

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